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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,822	12/26/2001	Yoon Yong Ko	011753	8014
23850	7590	08/23/2005	EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			RIVERO, MINERVA	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/926,822	KO ET AL.	
<b>Examiner</b>		<b>Art Unit</b>	
Minerva Rivero		2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 23 May 2005.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-5 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

1. In the Remarks filed 5/23/05, Applicants amended claims 1 and 3, added claim 5 and submitted arguments for allowability of pending claims.

***Response to Arguments***

2. Applicant's arguments filed 5/23/05 have been fully considered but they are not persuasive.
3. In response to applicant's argument that in contrast to Brown *et al.*'s disclosure the claimed subject matter is "directed to a method and apparatus for providing a normal person with more effective foreign language training", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Furthermore, Brown *et al.* disclose the applicability of their system to foreign language instruction (Col. 3, Lines 17-20).

4. Regarding claims 1 and 3, Applicants argue that the ‘time interval’ of Brown *et al.* is determined based on a *user reaction time* and regardless of the ‘file executing time’.

The examiner cannot concur with the Applicants. While Brown *et al.* discloses a *user reaction time*, said *user reaction time* is the equivalent of Applicants’ *time interval*. In Applicants’ Specification, Page 1, Line 21 – Page 2, Line 3, it is disclosed that a *time interval for the learner to practice the speech model is predetermined as a definite time interval*, and in the subsequently presented exemplary embodiments said time interval is flexible. If the time interval is the time available for the learner to practice the lesson, then it comprises a time interval during which the user would react to the material presented.

Furthermore, in Applicants’ Specification, Page 6, Line 24 – Page 7, Line 5, it is suggested that a ‘time interval’ is a *part* of the ‘file executing time’ as it discloses optionally executing the file without a ‘time interval’ and having the time interval equal the file execution time. Thus Applicants’ subsequent ‘file executing time’ is, like Brown *et al.*’s , inclusive of a *user reaction time* (Applicants’ ‘time interval’). If the ‘file executing time’ includes the *user reaction time* and the ‘file executing time’ is used for determination of the subsequent ‘file executing time’, then the subsequent ‘file executing time’ depends on the ‘time interval’ or *user reaction time*.

Therefore it is the examiner’s understanding that the flexible ‘time interval’ disclosed by the Applicants is the equivalent of Brown *et al.*’s *user reaction time*, which is also flexible (*changing the amount of time for each task*, Col. 9, Lines 22-37).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown *et al.* (US Patent 6,206,700), in view of Stoner (US Patent 4,611,996).

7. Regarding claims 1 and 3, Brown *et al.* disclose a foreign language training system and method comprising

a storage portion storing a plurality of language lesson multimedia files and a program used for executing the multimedia files (*audio-visual presentations may be pre-stored*, Col. 8, Lines 53-58);

a checking means for checking executing time of the multimedia files (*default or customized settings for presentation*, Col. 9, Lines 6-12; *monitoring user's reaction time to presented task (multimedia file) and consequently changing the amount of time for each task*, Col. 9, Lines 22-37);

a control portion that, depending on input control signals, selects a first file among a plurality of files stored in the storage portion, executes the first file using the

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program stored in the storage portion, executes a second file that is different from the first file after a time passes in accordance with the first file executing time checked by the checking means (see *Self-Adjusting for Subsequent Lesson*, Fig. 2; *monitoring user's reaction time to presented task (multimedia file) and consequently changing the amount of time for each task*, Col. 9, Lines 22-37; ordered or random presentation of stimuli for each lesson can occur, Col. 9, Lines 6-13);

a multimedia output portion outputting the executed multimedia files depending on an output control signal applied from the control portion (Fig. 22; Figs. 21A and 21B) and

an input potion inputting the input control signals to the control portion (see *Input from Stimuli Editor*, Fig. 2; *user input and programming of data*, Col. 6, Lines 61-64).

However, Brown *et al.* do not disclose but Stoner does disclose the time interval is adjusted in accordance with a predetermined proportion to the first file executing time checked by the checking means (*adjusting time in which student is allowed to answer, decreasing the count by 2%*, Col. 7, Lines 20-39).

Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention to modify the teachings of Brown *et al.* by having the time interval adjusted in accordance with a predetermined proportion to the first file executing time checked by the checking means, as disclosed by Stoner, since it allows the teaching system to be customized to the student's progressive ability.

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8. Regarding claim 2, Brown *et al.* further disclose the multimedia files are voice files composed in a native language or motion picture files including the voice files (Fig. 6A; Figs. 14A and 14B; *utterances*, Figs. 21A and 21B; Col. 3, Lines 17-20).

9. Regarding claim 4, Brown *et al.* further disclose executing a file is randomly selected among the plurality of multimedia files without repetition until all the files are executed (*random presentation for each lesson can occur*, Col. 9, Lines 6-13; see *Lesson Packages*, Fig. 2).

10. Regarding claim 5, Brown *et al.* suggest the predetermined proportion is manually selected via the input portion (*strategy types can be selected by the teacher, including rate of progression (fast, medium or slow)*, Col. 11, Lines 5-18; see Fig. 9).

### **Conclusion**

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minerva Rivero whose telephone number is (571) 272-7626. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis Ivars Smits can be reached on (571) 272-7628. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

W. R. YOUNG  
PRIMARY EXAMINER

MR 8/19/05